

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 DI'JON Q. STOCKER,

4 Plaintiff

Case No. 3:23-cv-00634-MMD-CLB

5 v.

6 STATE OF NEVADA, et al.,

7 Defendants

8

ORDER

9 **I. DISCUSSION**

10 Plaintiff has applied to proceed *in forma pauperis* ("IFP") in this action. (ECF No. 11 5). On August 12, 2024, the Court issued a screening order permitting Plaintiff's claim of 12 deliberate indifference to a serious medical need based on the initial failure to diagnose 13 and treat his scoliosis to proceed against Defendants Nowell Granados and John Datvin. 14 (ECF No. 8 at 8). The Court dismissed any claim based on the ongoing treatment for 15 Plaintiff's scoliosis without prejudice and with leave to amend. (*Id.*).

16 Plaintiff has filed a notice indicating that he will not file an amended complaint and 17 that he wishes to proceed with his claim against Defendants Granados and Datvin only. 18 (ECF No. 10).

19 **II. CONCLUSION**

20 For the foregoing reasons, it is ordered that, pursuant to the Court's screening 21 order (ECF No. 8), this action will proceed on Plaintiff's claim of deliberate indifference to 22 a serious medical need based on the initial failure to treat and diagnosis his back pain 23 against Defendants Granados and Datvin only.

24 It is further ordered that given the nature of the claim(s) that the Court has 25 permitted to proceed, this action is stayed for 90 days to allow Plaintiff and Defendant(s) 26 an opportunity to settle their dispute before the Court will determine whether to grant 27 Plaintiff's IFP application, the \$350 filing fee is paid, an answer is filed, or the discovery 28 process begins. During this 90-day stay period and until the Court lifts the stay, no other

1 pleadings or papers may be filed in this case, and the parties will not engage in any
2 discovery, nor are the parties required to respond to any paper filed in violation of the stay
3 unless specifically ordered by the Court to do so. The Court will refer this case to the
4 Court's Inmate Early Mediation Program, and the Court will enter a subsequent order.
5 Regardless, on or before 90 days from the date this order is entered, the Office of the
6 Attorney General will file the report form attached to this order regarding the results of the
7 90-day stay, even if a stipulation for dismissal is entered prior to the end of the 90-day
8 stay. If the parties proceed with this action, the Court will then issue an order setting a
9 date for Defendants to file an answer or other response. Following the filing of an answer,
10 the Court will issue a scheduling order setting discovery and dispositive motion deadlines.

11 It is further ordered that "settlement" may or may not include payment of money
12 damages. It also may or may not include an agreement to resolve Plaintiff's issues
13 differently. A compromise agreement is one in which neither party is completely satisfied
14 with the result, but both have given something up and both have obtained something in
15 return.

16 It is further ordered that if the case does not settle, then the Court will determine
17 whether to grant Plaintiff's IFP application. Plaintiff will be required to pay the full \$350.00
18 statutory filing fee for a civil action regardless of whether the Court grants his IFP
19 application. This fee cannot be waived, and the fee cannot be refunded once the Court
20 enters an order granting Plaintiff's IFP application. If Plaintiff is allowed to proceed IFP,
21 the fee will be paid in installments from his prison trust account. See 28 U.S.C. § 1915(b).
22 If Plaintiff is not allowed to proceed IFP, the full \$350 statutory filing fee for a civil action
23 plus the \$55 administrative filing fee, for a total of \$405, will be due immediately.

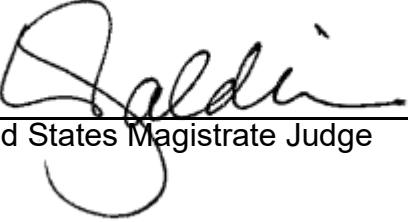
24 It is further ordered that if any party seeks to have this case excluded from the
25 inmate mediation program, that party will file a "motion to exclude case from mediation"
26 no later than 21 days prior to the date set for mediation. The responding party will have 7
27 days to file a response. No reply will be filed. Thereafter, the Court will issue an order, set
28 the matter for hearing, or both.

1 It is further ordered that if Plaintiff needs an interpreter to participate in the
2 mediation program, Plaintiff will file a notice identifying the interpretation language and
3 the need for the interpreter within 30 days from the date of this order.

4 It is further ordered that the Clerk of Court is further directed to add the Nevada
5 Department of Corrections to the docket as an Interested Party and electronically provide
6 a copy of this order and copies of all items previously filed in this case by regenerating
7 the Notices of Electronic Filing on the Office of the Attorney General of the State of
8 Nevada by adding the Attorney General of the State of Nevada to the interested party on
9 the docket. This does not indicate acceptance of service.

10 It is further ordered that the Attorney General's Office will advise the Court within
11 21 days of the date of the entry of this order whether it will enter a limited notice of
12 appearance on behalf of Defendants for the purpose of settlement. No defenses or
13 objections, including lack of service, will be waived as a result of the filing of the limited
14 notice of appearance.

15 DATED THIS 23rd day of August 2024.

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17 _____
18 United States Magistrate Judge
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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DI'JON Q. STOCKER,

Plaintiff

Case No. 3:23-cv-00634-MMD-CLB

REPORT OF ATTORNEY GENERAL RE: RESULTS OF 90-DAY STAY

v.

STATE OF NEVADA, et al.,

Defendants

**NOTE: ONLY THE OFFICE OF THE ATTORNEY GENERAL SHALL FILE THIS FORM.
THE INMATE PLAINTIFF SHALL NOT FILE THIS FORM.**

On _____ [*the date of the issuance of the screening order*], the Court issued its screening order stating that it had conducted its screening pursuant to 28 U.S.C. § 1915A, and that certain specified claims in this case would proceed. The Court ordered the Office of the Attorney General of the State of Nevada to file a report ninety (90) days after the date of the entry of the Court's screening order to indicate the status of the case at the end of the 90-day stay. By filing this form, the Office of the Attorney General hereby complies.

REPORT FORM

[Identify which of the following two situations (identified in bold type) describes the case, and follow the instructions corresponding to the proper statement.]

Situation One: Mediated Case: The case was assigned to mediation by a court-appointed mediator during the 90-day stay. [If this statement is accurate, check **ONE** of the six statements below and fill in any additional information as required, then proceed to the signature block.]

— A mediation session with a court-appointed mediator was held on _____ [enter date], and as of this date, the parties have reached a settlement (even if paperwork to memorialize the settlement remains to be completed). (If this box is checked, the parties are on notice that they must SEPARATELY file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in the case until a specified date upon which they will file a stipulation of dismissal.)

— A mediation session with a court-appointed mediator was held on _____ [enter date], and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

- No mediation session with a court-appointed mediator was held during the 90-day stay, but the parties have nevertheless settled the case. (If this box is checked, the parties are on notice that they must SEPARATELY file a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.)
- No mediation session with a court-appointed mediator was held during the 90-day stay, but one is currently scheduled for _____ [enter date].
- No mediation session with a court-appointed mediator was held during the 90-day stay, and as of this date, no date certain has been scheduled for such a session.
- None of the above five statements describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

* * * * *

Situation Two: Informal Settlement Discussions Case: The case was NOT assigned to mediation with a court-appointed mediator during the 90-day stay; rather, the parties were encouraged to engage in informal settlement negotiations. [If this statement is accurate, check **ONE** of the four statements below and fill in any additional information as required, then proceed to the signature block.]

- The parties engaged in settlement discussions and as of this date, the parties have reached a settlement (*even if the paperwork to memorialize the settlement remains to be completed*). (*If this box is checked, the parties are on notice that they must SEPARATELY file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.*)
- The parties engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.
- The parties have not engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.
- None of the above three statements fully describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

Submitted this _____ day of _____, _____ by:

Attorney Name: _____ Print _____ Signature _____

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Phone: _____

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Email: _____

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